

THOMAS GERLACH and DIRK DRÖGE
U.S. Patent Application S.N. 10/717,543

R E M A R K S

Reconsideration and allowance is respectfully requested in view of the amendments to the claims and following remarks.

Election/Restriction

Applicants affirm the election of Group I claims subject to their right to file an appropriate continuation application to prosecute the Group II and Group III inventions. Accordingly claims 24 and 25 have been canceled without prejudice or disclaimer.

Applicants confirm the cancellation of the claims to the non elected invention results in the currently named inventors being an inventor of at least one of the amended claims.

Claim Objections

Claims 4-23 were objected to as being in an improper multiple claim format.

Claims 1-24 were in European format as well as the format of the Specification. Claims 1-24 have been amended

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to a proper U.S. format and the Specification has been amended by adding the headings outlined in MPEP § 608.01(a). A clean copy of the Specification is appended for the convenience of the Patent Office. The amendment to the Specification and claims to place them in a U.S. format does not add new matter. The addition of new claims 26 and 27 likewise do not add new matter as they are fully supported by the Specification as filed.

Claim Rejections 35 U.S.C. § 112

Claims 1-3 were rejected under 35 U.S.C. § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the invention in using term such as "or the like", "can be" and "and/or".

All of the claims have been amended to a U.S. format to remove such indefinite terminology. As a result all of the amended claims are deemed to be in an allowable format.

Claim Rejections - 35 U.S.C. § 102

Claims 1-3 were rejected under 35 U.S.C. § 102 as being anticipated by Radtke, et al. U.S. Patent 5,005,751.

Radtke, et al. '751 is not a gather-stapler device and as such does not have a "staple carriage with two or more stapling heads" as described in the claims and Specification. The invention unlike Radtke, et al. '751 provides a moveable staple carriage that as described in the Specification, "travels synchronously with the material to be stapled during the stapling process, so that its transport is not stopped" so that "stapling takes place while in motion." As a result Radtke, et al. '751 does not have a moveable staple carriage or linear guides for moving the staple carriage synchronously with the material to be stapled.

Since Radtke, et al. '751 does not have a staple carriage the "stapling devices 15" of Radtke, et al. '751 cannot move longitudinally in substantial synchronous movement with the sheet like material to be stapled. As a result Radtke, et al. '751 is not able to staple material in motion and requires material to first be stapled to be "stacked in the staking area" before stapling col. 2, l. 45.

The invention unlike Radtke, et al. '751 has a staple carriage for providing lateral and longitudinal travel to allow material to be stapled while it is being transported


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without the need to be slowed down or stopped during the stapling process. See Spec. page 10, paragraph 0040. Moreover the novel design of the invention allows a rapid changing of the distance between the staples in material being stapled as well as a rapid machine for stapling.

It is believed the claims as now amended are in a condition for allowance, which action is respectfully requested.

Respectfully submitted,

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